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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,815	09/18/2003	Kevin W. Shimasaki	81009/7400	6622

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CHICAGO, IL 60603-3406

EXAMINER

MCPARTLIN, SARAH B

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/665,815

Applicant(s)

SHIMASAKI ET AL.

Examiner

Sarah B. McPartlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/9/04 &amp; 6/10/04</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information referred to in the information disclosure statements filed on June 9, 2005 and June 10, 2005 have been considered as to the merits.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by **this invention**," "The disclosure describes," etc.

### *Claim Objections*

3. Claims 1-7 are objected to because of the following informalities:
  - It appears as if the word - a - - should be inserted between the words "in" and "vehicle" in line 1 of claim 1.
  - It appears as if the word "side" in line 5 of claim 6 should be replaced with the word - - slide - -.

Claims 2-5 and 7 are objected to as being dependent upon an objected base claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-10 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Bentley (6,742,840). With respect to claims 1 and 8 Bentley discloses an apparatus (10) for use in sitting in a vehicle for travel, comprising: a base (22) fixed to a vehicle (un-illustrated); a seat pan (90)(42) movably secured with the base (22); a backrest (14) movably secured with the base (22); the seat pan (90)(42) includes a first portion (42) and a second portion (90) , wherein the first portion (42) is rotationally secured at pivot axis (PA) to the second portion (90) such that the first portion (42) can be rotationally positioned in a plurality of positioned relative to the second portion (90) and out of relative alignment with the second portion (90).

With respect to claim 2 and 9, the seat pan (90)(42) is movably secured to the base (22) such that the seat pan moves generally horizontal relative to the base (22) as can be seen by the generally horizontal track member (126) disclosed in Figure 3.

With respect to claim 3, the backrest (14) is movably secured to the base (22) such that a lower portion (unlabeled) of the backrest pivots as the seat pan (90)(42) is

moved given that backrest (14) and the second portion (90) of seat pan are linked together.

With respect to claims 4-5 and 12-14, the first portion (42) is rotationally secured such that in a first position the first portion (42) of the seat pan (90)(42) is in alignment with the second portion (90) and in a second position wherein the first portion (42) is out of alignment with the second portion (90) such that a distal end furthest from the second portion (90) is below a proximal end proximate the second portion (90) or the distal end is above the proximal end of the second portion. This upward and downward movement is facilitated by pivot mechanism (94) which allows the first portion (42) to raise and lower with respect to the frame (22) and therefore with respect to the second portion (90).

With respect to claim 6, a first track (126) is fixed within said base (22) wherein the seat pan (90)(42) is mounted by way of roller (188) in said track (126) such that the seat pan can slide along the first track (126).

With respect to claim 7, figure 6B discloses a pivot arm (unlabeled) secured with the base (22) by way of hydrolock (98) proximate a first end of the pivot arm and secured with the seat pan (90)(42) proximate a second end of the pivot arm, wherein the pivot arm pivots about the first end moving the front portion (42) of the seat pan as the seat pan is moved.

With respect to claim 10, the backrest (14) is pivotably secured at a first pivot point defined by roller (122) with the base (22) wherein a lower portion of the back (14) proximate the seat pan (90)(42) pivots with the horizontal movement of the seat pan

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(90)(42) given that backrest (14) and the second portion (90) of seat pan are linked together.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley (6,742,840) in view of Beroth (6,352,309). Bentley discloses all claimed elements with the exception of a backrest frame pivotally secured to the base. Beroth discloses a backrest (20) with a frame (unlabeled) pivotally secured to a base (15) at pivot point (25) while the backrest (20) is pivotally secured to the base by way of pivot (23). It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a pivotal connection between the back frame and the base in the device disclosed by Bentley as taught by Beroth. Such a modification allows for an additional degree of freedom creating more adjustability of the seat for the occupant.

8. Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley (6,742,840). With respect to claim 15, Bentley discloses a first portion (42) of a seat pan (90)(42) pivotably secured to a base (22) by way of a second portion (90) of the seat pan (90)(42) which is movable secured to the base to move along an axis

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define d by slot (126); a back frame (unlabeled) secured to the base (22) and providing support for the backrest (14) as best seen in Figures 1A-1C; and pivotably securing a backrest (14) with the back frame by way of second portion (90) and rollers (122) and (118) such that a lower portion of the back rest pivots as the second portion (90) of the seat pan (90)(42) is moved along the axis defined by slot (126).

With respect to claim 17, the first portion (42) of the seat pan (90)(42) is secured to the base (22) such that it can pivot out of alignment (see Figure 5) with the second portion (90).

Bentley discloses all claimed elements without the specific method of use steps. The structure disclosed by Bentley makes the method of use steps obvious.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley (6,742,840) in view of Beroth (6,352,309). Bentley discloses all claimed elements with the exception of a backrest frame rotationally secured to the base. Beroth discloses a backrest (20) with a frame (unlabeled) pivotally secured to a base (15) at pivot point (25) while the backrest (20) is pivotally secured to the base by way of pivot (23). It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a pivotal connection between the back frame and the base in the device disclosed by Bentley as taught by Beroth. Such a modification allows for an additional degree of freedom creating more adjustability of the seat for the occupant.

### ***Conclusion***


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Plant (6,494,536); Jonas et al. (6,578,915); Matsumiya (5,722,726); Chen (6,604,791); McDiarmid (5,716,099); Hubbard (5,597,203); Ostergaard (5,246,266) and Yeh et al. (5,215,352).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM  
November 2, 2005

  
**Peter M. Cuomo**  
Supervisory Patent Examiner  
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